STATE OF ILLINOIS)
) SS
COUNTY OF OGLE)

ORDINANCE NO. 2009-0802

AN ORDINANCE APPROVING A ZONING MAP AMENDMENT ON PROPERTY LOCATED IN THE 2200 BLOCK OF W. MUD CREEK ROAD, ROCKVALE TOWNSHIP

WHEREAS, Anderson Family Trust, Eric G. Anderson, Trustee, has filed a petition for a Map Amendment (Petition No. 05-09AM) to re-zone from AG-1 Agricultural District to R-1 Rural Residence District on property located in the 2200 Block of W. Mud Creek Road, Oregon, IL and legally described as shown in Exhibit "A" attached hereto; and

WHEREAS, following due and proper notice by publication in the Ogle County Life at least fifteen (15) days prior thereto, and by mailing notice to all owners of property abutting the subject property at least fifteen (15) days prior thereto, the Ogle County Zoning Board of Appeals conducted a public hearing on July 30, 2009, at which the petitioners presented evidence, testimony, and exhibits in support of the requested Map Amendment, one member of the public spoke in favor of the petition, and two member(s) of the public spoke against the petition; and

WHEREAS, the Zoning Board of Appeals, having considered the evidence, testimony and exhibits presented has made its findings of fact and recommended that the requested Map Amendment be denied as set forth in the Findings of Fact and Recommendation of the Ogle County Zoning Board of Appeals dated July 30, 2009, a copy of which is appended hereto as Exhibit "B"; and

WHEREAS, the Planning and Zoning Committee of the Ogle County Board has reviewed the testimony and exhibits presented at the public hearing and has considered the Findings of Fact and recommendation of the Zoning Board of Appeals, and has forwarded a recommendation to the Ogle County Board that the requested Map Amendment be denied; and

WHEREAS, the Ogle County Board has considered the findings of fact and recommendation of the Zoning Board of Appeals and the recommendation of the Planning and Zoning Committee, and has determined that granting the Map Amendment would be inconsistent with the requirements established by Section 9.07(G) of the Ogle County Amendatory Zoning Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY BOARD OF OGLE COUNTY, ILLINOIS, as follows:

SECTION ONE: The report of the Ogle County Zoning Board of Appeals, Exhibit "B" attached hereto, is hereby accepted and the findings set forth therein are hereby adopted as the findings of fact and conclusions of the Ogle County Board.

SECTION TWO: Based on the findings of fact as set forth above, the petition of Anderson Family Trust, Eric G. Anderson, Trustee, to rezone a parcel of land located in the 2200 Block of W. Mud Creek Road in Rockvale Township and legally described as shown in Exhibit "A" attached hereto from AG-1 Agricultural District to R-1 Rural Residence District, is hereby denied.

SECTION THREE: This Ordinance shall be in full force and effect upon its adoption by the County Board of Ogle County, Illinois and attestation by the Ogle County Clerk.

SECTION FOUR: Failure of the owners of other party in interest to comply with the terms of this Ordinance, after execution of such Ordinance, shall subject the owners or party in interest to the penalties set forth in Section 9.10 of the Ogle County Amendatory Zoning Ordinance.

PASSED BY THE COUNTY BOARD THIS 18TH DAY OF AUGUST 2009 A.D.

W. Ed Rice

W. Ed Rice, Chairman of the Ogle County Board

ATTEST:

Rebecca Huntley

Rebecca Huntley, Ogle County Clerk and
Ex Officio Clerk of the Ogle County Board

OGLE COUNTY CLERK * OGLE COUNTY, ILLINOIS *

EXHIBIT "A"
LEGAL DESCRIPTION

That part of the East ½ of the Southeast 1/4 of Section 30, Township 24 North, Range 10 East of the 4th Principal Meridian, bounded and described as follows: Beginning at the point of intersection of the West line of the East ½ of the Southeast 1/4 of said Section 30 and the centerline of the public road designated as Mud Creek Road**;** thence south along said west line a distance of 865'; thence east a distance of 400'; thence north to the centerline of Mud Creek Road; thence west along said centerline to the point of beginning, containing 7.6 acres, more or less, subject to land being used for public road purposes.

Part of Property Identification No. 09-30-400-008
Common Location: 2200 Block of W. Mud Creek Road

EXHIBIT "B"

FINDINGS OF FACT AND RECOMMENDATION OF THE ZONING BOARD OF APPEALS

Ogle County Zoning Board of Appeals

911 W. Pines Road
Oregon, IL 61061
815.732.1190
Fax: 815.732.2229

FINDINGS OF FACT AND RECOMMENDATION
OF THE OGLE COUNTY ZONING BOARD OF APPEALS

This is the findings of fact and the recommendation of the Ogle County Zoning Board of Appeals concerning an application of Anderson Family Trust, Eric G. Anderson, Trustee, 1993 W. Mud Creek Rd., Oregon, IL, in case #05-09AM. The applicant is requesting a map amendment to change the zoning classification of part of Parcel Identification No. 09-30-400-008, a 7.60 acre parcel, from AG-1 Agricultural District to R-1 Rural Residence District. Said parcel is part of Section 30, Township 24N, Range 10E of the 4th Principal Meridian and is located in Rockvale Township in the 2200 Block of W. Mud Creek Road.

After due notice, as required by law, the Zoning Board of Appeals held a public hearing in this case on July 30, 2009 at the Ogle County Farm Bureau, 421 W. Pines Rd., Oregon, Illinois and hereby report their findings of fact and their recommendation as follows:

SITE INFORMATION: See Staff Report (attached herewith).

ANALYSIS OF SEVEN STANDARDS: After considering all the evidence and testimony presented at the public hearing, this Board makes the following analysis of the six standards listed in Section 9.07(G) (Standards for Map Amendments) of the *Ogle County Amendatory Zoning Ordinance* that must all be found in the affirmative prior to recommending granting of the petition.

1. That the proposed amendment will allow development that is compatible with existing uses and zoning of nearby property. **Development of the site for residential use is incompatible with the existing agricultural uses and agricultural zoning of nearby properties. Development of a residential use in this area will encourage premature residential development in an agricultural area. <u>Standard not met</u>.**

2. That the County of Ogle and other service providers will be able to provide adequate public facilities and services to the property (including, but not necessarily limited to, schools, police and fire protection, roads and highways, water supply and sewage disposal), while maintaining adequate public facilities and levels of service to existing development. **The development of the site for residential use will not create a burden on the County of Ogle and other public service providers because only one house will be constructed on the site that fronts on a County highway, and also due to its relative proximity to urban services. <u>Standard met</u>.**

3. That the proposed amendment will not result in significant adverse impacts on other property in the vicinity of the subject site or on the environment, including air, noise, stormwater management, wildlife and natural resources. **No adverse impacts on other property in the vicinity of the subject site or on the environment, including air, noise, stormwater management, wildlife and natural resources are anticipated from the development of the site. <u>Standard met</u>.**

4. That the subject property is suitable for the proposed zoning classification. **The site is inconsistent with the purpose and intent of the R-1 Rural Residence District, the site is located within a predominately agricultural area, there is a potential hazard of groundwater contamination from septic systems, and the site is currently being farmed. These factors make the site unsuitable for the R-1 Rural Residence District. Standard not met.**

5. That the proposed zoning classification is consistent with the trend of development, if any, in the general area of the subject property including changes, if any, which have taken place since the day the property in question was placed in its present zoning classification. **There is no trend of development in the immediate area other than agricultural uses and residential uses on pre-existing parcels. The proposed zoning classification is inconsistent with this trend and the existing zoning of the surrounding land. Standard not met.**

6. That the proposed amendment is consistent with the public interest and not solely for the interest of the applicant, giving due consideration to the stated purpose and intent of the Amendatory Zoning Ordinance as set forth in Division 1 therein, the Land Evaluation and Site Assessment (LESA) findings (if applicable), and the recommendation(s) of the Ogle County Regional Planning Commission with respect to the *Ogle County Amendatory Comprehensive Plan.* **The proposed amendment is inconsistent with the public interest and is solely for the interest of the applicant. The proposed amendment is inconsistent with the stated purpose and intent of the Amendatory Zoning Ordinance. The Regional Planning Commission has recommended denial. Standard not met.**

RECOMMENDATION: We find that the proposed map amendment requested does not meet all the standards for recommending granting as found in Section 9.07(G) of the *Ogle County Amendatory Zoning Ordinance* and that such request is not in the public interest. Therefore, the Zoning Board of Appeals hereby recommends that the zoning district classification of the property described above not be changed from AG-1 Agricultural District to R-1 Rural Residence District.

ROLL CALL VOTE: The roll call vote was 4 members for the motion to recommend denial, 1 opposed.

Respectfully submitted this 30th day of July 2009 by the Ogle County Zoning Board of Appeals.

Bruce McKinney, Chairman
Maurice Bronkema
Jason Sword
Randall Anderson
Curtis Freeberg

Bruce McKinney, Chair

ATTEST:

Mark E. Miller

Michael Reibel, Secretary
by Mark E. Miller, Acting Secretary

STATE OF ILLINOIS)
)SS
COUNTY OF OGLE)

In the Matter of the Petition
of
Anderson Family Trust, Eric G. Anderson Trustee,
Rockvale Township

Ogle County, Illinois

Testimony of Witnesses
Produced, Sworn and
Examined on this 30th day
of July 2009
before the Ogle County
Zoning Board of Appeals

Present:
Maurice Bronkema
Randall Anderson
Curtis Freeberg
Jason Sword
Bruce McKinney, Chairman
Mark Miller, Zoning Staff

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MR. McKINNEY: Next order of business?

MR. MILLER: The next order of business is to consider the request filed June 19th, 2009 of Anderson Family Trust, Eric G. Anderson Trustee, 1993 West Mud Creek Road, Oregon, Illinois for an Amendment to the Zoning District to rezone from AG-1 Agricultural District to R-1 Rural Residence District on property described as follows and owned by the Petitioners:

Part of the NE1/4 of the SE1/4 Section 30 Rockvale Township, Ogle County, IL, 7.60 acres, more or less.

For the record, a sign was posted along the frontage of the premises indicating that a zoning hearing is to be held regarding this property. All adjoining owners have been notified of the hearing this evening and the specifics of the petition and a legal notice was published in the July 6th, 2009 edition of the Ogle County Life notifying the public of the hearing this evening and the specifics of the petition.

Under the staff report, a copy of which is on file and the Board members have received, under general information I would point out that

the existing land use is cropland, row crop production. Surrounding Land Use and Zoning: The site is located within a predominantly agricultural area. There are 11 nonfarm dwellings located within a half a mile of the site. All surrounding land is zoned AG-1 Agricultural District. Zoning History: None. Public Utilities: None. Transportation: West Mud Creek Road is a hot mix surface, Ogle County highway. The Physical Characteristics: The site is located on a well-drained upland side slope. The elevations on the site range from over 837 feet on the north part of the site to less than 787 feet in the southern part of the site. The slopes on site range from gently sloping to moderately/very steep. There are no floodplains or wetlands present on the site.

According to the Ogle County Digital Soil Survey, soil types on the site are 403F - Elizabeth loam; 419C2 - Flagg silt loam; 509D2 - Whalan loam; 675B - Greenbush silt loam. Approximately 43 percent of the soils on the site are classified as "Prime". Approximately 34.2 percent are classified as "Farmland of

Statewide Importance". Approximately 22.8 percent are classified as "Not Farm" -- "Not Prime Farmland". Approximately 22.8 percent of the sites are classified as "Very Limited" for septic fields due to slow water movement, depth to bedrock and slope. The remainder of the soils on site, approximately 77.2 percent, are classified as "Somewhat Limited" for septic fields due to slow water movement and depth to saturated zone. The soils on the site are not flooded or ponded.

For the LESA, the LESA score of 193.3 indicates a Low rating for protection. The Land Evaluation of 73 -- 72.3 -- excuse me -- and a Site Assessment of 121.

In a letter from the Ogle County Soil and Water Conservation District, the district lists the following facts derived from the soil -- soils in the land evaluation and any other additional site facts that could be a concern for the protection of our County's natural resources and they point out Land Evaluation score of 72.43 out of a hundred points. No. 2) Most of the site appears to be in continuous row

crop production. And No. 3) Severe limitations for proposed use based on the following characteristics in a greater percentage of the mapped soils are: Low strength for supporting load and high potential frost action. Signed Phil Fossler, Chairman and Brian Lindquist, Resource Conservationist.

I have a letter on file from the Illinois Department of Natural Resources that reads in part the natural resource review provided by Eco-Cat identified protected resources that may be in the vicinity of the proposed action. The department has evaluated this information and concluded that adverse effects are unlikely and therefore consultation is terminated.

At the July 23rd meeting of the Ogle County Regional Planning Commission, Mr. Ocken made a motion to recommend approval of Petition 2-09 -- excuse me -- 5-09 Amend. The motion was seconded by Mr. Colson. Motion -- whoops -- I have -- excuse me, I have the wrong one there.

MR. McKINNEY: I was going to say I didn't think that was right.

MR. MILLER: Excuse me, sorry about that.

Mr. Colson made a -- made a motion to recommend approval of Petition 5-09 Amend. The motion was seconded by Mr. Poole. The motion carried on a role call vote of four in favor and three opposed. Mr. Chairman, that's all I have.

MR. McKINNEY: I don't think that's correct. That failed, didn't it?

MR. FUNK: It failed.

MR. McKINNEY: Yeah, they went through it the first time and it was a 3-4 to approve, so they made a new motion to deny the petition and I believe that passed 4-3.

MR. FUNK: The affirmative on the second motion, so the denial stood.

MR. MILLER: Oh, okay. I apologize. Mr. Colson made a motion to recommend denial.

MR. McKINNEY: Okay. Is everybody straight on that? The planning commission denied this petition on a 4-3 vote. I'll entertain a motion to go into public hearing.

MR. BRONKEMA: So moved.

MR. FREEBERG: Second.

MR. McKINNEY: Moved and seconded to go into a public hearing. All those in favor

signify by saying aye.

(All those simultaneously responded.)

MR. McKINNEY: Any opposed say nay. Motion passed. We are in a public hearing. Will the Petitioner please come forward.

ERIC G. ANDERSON,

being first duly sworn, testified as follows:

MR. McKINNEY: Give her your name.

ERIC ANDERSON: Eric Anderson, A-N-D-E-R-S-O-N, 1993 West Mud Creek Road, Oregon, Illinois.

MR. McKINNEY: Tell us about your petition.

ERIC ANDERSON: Okay. I'm getting old and losing my memory pretty rapidly. Could I read just a brief statement here?

MR. McKINNEY: Fine.

ERIC ANDERSON: Okay. This property is owned by a trust known as the Anderson Family Trust. Upon the death of my wife last October I became the sole trustee and beneficiary of this trust. Without my wife I feel that it would be best to dissolve the trust and pass on the

assets to my two children and one granddaughter. However, it would be necessary to pay off the existing mortgage in order to do so. Due to the current state of the economy, the bankruptcy of the company from which I retired and some extremely bad and expensive financial advice, the state of my retirement is far from secure. Over the years we've had inquiries from several people who were interested in a small plot of land suitable for a family farm, a place where they could raise horses and their children could participate in 4-H or FFA projects. The size of this property is 7.6 acres and the fact that it is separated from the rest of the farm by an impassable waterway make it ideal for a small family farm or hobby farm. The land is bordered on the south by approximately 80 acres of creek valley with pine and oak woodlands that have been treated as a natural wildlife habitat for about 20 years. The trails in this area are good for use by our neighbors who own small pieces of property adjoining our land along the eastern border, a place to ride horses and drive snowmobile and ATVs. These areas would be

available to a family that might make a home on this small plot. Mud Creek Road is straight and level at this point making safe driveway access. The property is on an existing school bus route and there are four existing single-family, nonfarm residences within approximately 200 yards of this piece of property. The current use of the land is far from ideal. The fact that this land is not accessible from the rest of the farm, but only from Mud Creek Road, coupled with the relatively small size and slope make it difficult to farm with large, modern equipment. Based on these facts it seems that a small family or hobby farm would be the best possible use for this property and it requires a rural agricultural environment.

MR. McKINNEY: Okay. This property is -- you don't have any other property around this?

ERIC ANDERSON: I own the property on two sides of it, on the south and the east.

MR. McKINNEY: Okay. You also have a couple large farms in the area, don't you?

ERIC ANDERSON: Well, we -- the property we live on we -- we own 200 acres altogether.

It adjoins this property, but it's separated by a waterway so that you can't get to it without going out on the road.

MR. McKINNEY: You have a couple -- or at least one large dairy farm nearby.

ERIC ANDERSON: Yes. Snodgrass' dairy farm is about three-quarters of a mile north.

MR. McKINNEY: How about on the south, is there another farm in that location?

ERIC ANDERSON: The south side of it is -- Mud Creek flows down through the valley there and we own that and the land on the opposite slope, part of which is in set aside because of its inaccessibility and it has wildlife, feedlots and things on that.

MR. McKINNEY: One thing that we have to be very concerned with is if we start building residential homes in an area near -- such as I think you said Snodgrass' farm --

ERIC ANDERSON: That's right.

MR. McKINNEY: -- then we're going to start getting complaints. You know, people move out from the city because they want to live in the country but they don't want to smell the

country.

ERIC ANDERSON: I believe that issue in that area was resolved by Silver Ridge back before I even bought the property. I think that's been resolved in court.

MR. McKINNEY: Well, we still -- or Mike Reibel's office or somebody, the County Board members will be getting complaints possibly from residents because of the country smell.

ERIC ANDERSON: We've never -- hardly ever noticed it. Probably in 35 years maybe one or two days and we haven't complained.

MR. McKINNEY: Do you really think a residential home will fit and it would not be detrimental to the farming around there?

ERIC ANDERSON: No, it -- the concept is it's a small family farm, you know, to raise horses or kids can have livestock, some things like that. It's a really pretty piece of land and a beautiful view across the valley. It would be an ideal building site. In fact, my wife and I had planned at one time that we would build a house there for our granddaughter and

her family, but those plans kind of fell through.

RANDY ANDERSON: Was anything ever discussed with you about going to maybe a 10-acre parcel so that it would stay as Intermediate Ag?

ERIC ANDERSON: It would be difficult because you would either have to go down into the creek or across it actually on the opposite side of the waterway.

RANDY ANDERSON: You'd have to go south down into the creek?

ERIC ANDERSON: Yeah.

RANDY ANDERSON: But there's a possibility of doing that, keeping it as Intermediate Ag?

ERIC ANDERSON: It can be done, yeah.

MR. McKINNEY: How many years have you had row crop on this 7 acres?

ERIC ANDERSON: Probably about five -- four or five.

MR. McKINNEY: What kind of yields do you get off that?

ERIC ANDERSON: I don't know.

MR. McKINNEY: Oh, you don't do the

farming?

ERIC ANDERSON: It was in set aside at one time and this young man came along and was trying to get started in farming, Mark Leary, Tim Leary's son and was looking for some property and at that time our set aside was expiring, so instead of renewing the set aside we rented the land to him.

MR. McKINNEY: Have you looked at selling this 7 acres to somebody that already farms in that area?

ERIC ANDERSON: It's not real good farmland. It's inaccessible and it's listed as highly erodible, but just -- nobody is looking for small pieces of farm ground to farm anymore.

MR. FREEBERG: Do they have a problem with erosion in gullies and --

ERIC ANDERSON: Pardon?

MR. FREEBERG: Do they have a problem with erosion in gullies and that kind of stuff when they farm?

ERIC ANDERSON: In the waterways it's highly erodible.

MR. FREEBERG: I noticed -- I mean, you

kind of look in the picture and there's a waterway running up through the east side here that comes almost up to the road.

ERIC ANDERSON: It does come to the road.

MR. FREEBERG: So they can't drive across that waterway?

ERIC ANDERSON: No.

MR. FREEBERG: And then it looked like over in here there's more waterways or drainage areas coming up in there?

ERIC ANDERSON: That's pasture area.

MR. FREEBERG: So that's not being row crop farmed anyway.

ERIC ANDERSON: No, and then on the corner there are four single-family residences on 1 and 2-acre lots, but that's within 200 yards.

MR. FREEBERG: So there's already four -- those people are not involved in farming?

ERIC ANDERSON: No.

MR. BRONKEMA: None of them.

MR. FREEBERG: Over here there's more just east of you where this drive comes in?

ERIC ANDERSON: My son lives in this house, I live in this house and these are

residences over here.

MR. FREEBERG: Okay, so there's two more residences here?

ERIC ANDERSON: Right.

MR. FREEBERG: Whereabouts is this farm Bruce was talking about, the dairy farm, where is that on this --

ERIC ANDERSON: Straight north, up.

MR. McKINNEY: Oh, I thought it was --

ERIC ANDERSON: About in this area (indicating).

MR. FREEBERG: Where it says Merle and Anna Mae Snodgrass, up in here somewhere?

ERIC ANDERSON: Up in this area. It's three-quarters of a mile straight across.

RANDY ANDERSON: Have you ever had an adjacent landowner come to you and possibly be interested in purchasing a portion of that?

ERIC ANDERSON: No, we've had inquiries from outside people. In fact, we had one offer that was withdrawn, but --

MR. FREEBERG: So you've got a water ditch that you can't cross coming up the east side to Mud Creek Road and the other side looks like

there's a tree line that comes about halfway up the property?

ERIC ANDERSON: About halfway up to the tree line and the fence is here. This is open to the valley down here at this location.

MR. BRONKEMA: This area here you evidently don't farm?

ERIC ANDERSON: No, none of this. Draw a straight line across here, this is all nonfarm. It's all wildlife refuge.

MR. FREEBERG: Is the reason you want this parcel here instead of one over here next to residences or one over here next to these residences?

ERIC ANDERSON: No, it's just that that one is separated from the farm and it would be an ideal building site. It would make more sense.

MR. BRONKEMA: It's not accessible from any other area of the farm?

ERIC ANDERSON: No.

MR. McKINNEY: Any other questions?

MR. BRONKEMA: I guess not.

MR. McKINNEY: Okay. Have a seat. I

believe there was no letter of appearance filed. So at this time I'll enter -- or is there anybody here that wishes to testify in favor of this petition? Please come forward and be sworn in.

RICHARD PETITT,

being first duly sworn, testified as follows:

MR. McKINNEY: Give her your name and address.

MR. PETITT: Richard A. Petitt, P-E-T-I-T-T, Sr.

MR. McKINNEY: Your address?

MR. PETITT: 708 Kaskaskia, that's all with K's, K-A-S-K-A-S-K-I-A, Dixon, that's Lost Nation, Illinois.

MR. McKINNEY: Okay.

MR. PETITT: Okay. I was in the elevator business back when Andy first looked at that piece of property and I wasn't the true influence and cause I'm sure, but I think I helped him line it up. You know, it's been ideal for an airline pilot. Now, here's a wrinkle he didn't tell you I don't think and I think it is important. His retirement is from

United Airlines. United Airlines doesn't have a retirement anymore. It's been passed on to this other government agency and may not be in existence much longer. This is a trust piece of property and it cannot be divided until it's paid off and the farm is almost paid off, he's had it long enough, but he needs some cash and this looks to be a good way to get it. Now, as far as to the use of the land, this piece has access to Mud Creek blacktop, there's a culvert there. The other piece -- there was that other 5 acres we talked about, but that doesn't have access -- a good access to it. So it's for sale, I mean, if anybody wants it. It's been for sale for some time. I've had no bids from any other farmers or questions even about it and so apparently nobody is interested that we can see. Now, both Andy and I aren't going to live in two-story houses much longer and both of the houses that are there are two-story. The daughter has come up from Florida to take care of Andy. He's not in that good of shape either, but I mean, they'd like to have their own separate place to live. So a very logical buyer

of it will be the daughter and that's about all I have to say. Anybody have anymore questions? I think it's a matter of money. It's not a matter of desire. The dairy farm is three-quarters and over a hill.

MR. McKINNEY: Unfortunately we can't look at the money aspect. We have to look at the property and the surrounding properties.

MR. PETITT: Okay.

MR. FREEBERG: When you said it's been for sale for some time, do you mean just this 7 acres or the whole --

MR. PETITT: 7 acres and around here it's 5 acres. There's even a sign there. It's probably not saleable because of access to Mud Creek. We really thought the neighbor next to it would buy it, but no -- no bid on that. He at one time did want it.

MR. McKINNEY: Any other questions?

RANDY ANDERSON: Did you say something to reference that there may be a daughter that's looking --

MR. PETITT: There is a possibility. The daughter and son-in-law moved up here from

Florida to take care of Andy after his wife died and I don't know, I'd like to see him stay there myself. He's done an awful lot to build this airport. He's one of the senior United pilots. It's a shame what's happened to the retirement.

MR. McKINNEY: Any other questions? Is there anybody else that wishes to testify in favor of this petition? Is there anybody that wishes to testify opposing the petition? Mr. Snodgrass, I believe you asked that you could remain seated.

MERLE SNODGRASS: Is that okay if I do?

MR. McKINNEY: If you'd like to sit up here closer to the front to make sure we can all hear and that Julie can hear.

TOM SNODGRASS: May I present this to the Board now or later?

MR. McKINNEY: Just wait. I want -- are both of you going to be testifying?

TOM SNODGRASS: Possibly.

MR. McKINNEY: Why don't you both raise your right hands.

MERLE SNODGRASS and TOM SNODGRASS, being first duly sworn, testified as follows:

MR. McKINNEY: Can you give Julie your names and addresses.

MERLE SNODGRASS: Merle Snodgrass, 1996 West Snodgrass Road. Snodgrass is spelled S-N-O-D-G-R-A-S-S.

TOM SNODGRASS: Tom Snodgrass, 6618 West Apple Road, Mt. Morris. Snodgrass is spelled S-N-O-D-G-R-A-S-S.

MR. McKINNEY: Mr. Snodgrass, go ahead.

MERLE SNODGRASS: I believe when Ogle County adopted the zoning in 1965 one of the main reasons was to try to have the growth in the County be so that it doesn't conflict with each other. In other words, let's have agriculture in one area, build the houses in another area, businesses and factories in another area. I think this is one of the main things that the Board felt zoning would be beneficial to.

Now, we have a piece of ground here, we have about 80 acres, not quite, where we have a beef herd, have had for years, they go out there in April and take them in in the fall and the proposed piece of ground is right beside where

this is. Now, we have some printouts. Could I give each one of the Board members this?

MR. McKINNEY: Yes.

MERLE SNODGRASS: It's everything from Rock Road to Lime Kiln Road. I would like you all to take a look at that.

MR. McKINNEY: You got a copy for Mark? We'll mark this as Exhibit 1 Snodgrass.

TOM SNODGRASS: Okay. Each one of them got one.

MERLE SNODGRASS: Okay. This is pretty much -- I'd like to start with one row to the other and go through there, if it's okay.

MR. McKINNEY: You've got the floor.

MERLE SNODGRASS: Okay. As you -- from Rock Road you'll find two houses there and a mobile home and then a farmhouse. This farmhouse has been there since the early 1900's. George Carr (phonetic) built that, Herb Carr, his son, they farmed there for many years. The depression came along and the bank got the farm. Well, then a few years later -- well, it was about ten years later a man by the name of Charlie Sanders bought the farm. He moved in

this house and farmed and he had a son that got married, so they put this trailer in beside the house for his son to live in. Now, this was back about 1955, along in there. Then Mr. Sanders -- Amos Taylor came to him -- on the corner of Rock Road and Mud Creek Road there are two houses there. Mr. Sanders sold Amos Taylor and Marv Noring (phonetic) one acre, more or less and they built a house there. He paid $150 an acre for the 360 acres of land and he sold an acre for $400 dollars. Now, that's not very much money, but with those two lots he got $500 to pay on his land. And I talked to Mr. Sanders many times and of course, if he had to do that over he probably would not have done that, but $500 back at that time looked like it would be helpful to give it to the bank and have that much less to pay on. So that -- today those two houses Mr. Taylor -- Ken Cleveland lives in the house that Marv Noring built. Today those houses are still AG-1. And if you go south on Rock Road our ground runs a half a mile south and you cross the bridge and go up the hill Barb Samsul (phonetic) lives there. She owns the

farm to the west. And then on the other side of the road Jim Thomas lives there. He owns the farm east and south a little bit. And then you come back on the west side of Rock Road and the -- Mrs. -- or Elsie Dumont (phonetic) -- Dr. Dumont and his wife built that house and she was the one that owned the farm. Barb Samsul is Elsie Dumont's daughter. So that gives you a little -- that's all agriculture over there. Now, let's go over and go east from where this property is and you go out to -- Silver Creek Road comes down from the north and then you go down a lane into Mr. Anderson's and when he first bought that there was a farmhouse about a quarter of a mile south and he lived there for a short time and then he built a fine house a little bit north and east of the old farmhouse. Then some years later his son, Denny, built a house west of him, maybe, I don't know, 40, 50 rods and as far as I know that's all agriculture. Then let's go east to Lime Kiln Road. A man by the name of William Rand (phonetic) owned that for a number of years and farmed it and then he decided to retire, so he

built the house on the corner of Mud Creek Road and Lime Kiln Road -- Bill Rand, and lived there for a number of years. And so that whole area as far as I know is all agriculture. And I hope the purpose of zoning is to try to keep things in perspective and keep them so we don't interfere with each other and what we're doing. I'm very concerned about someone building a house and having a yard. The gate where we move the cattle in and out is right -- right in that corner of the -- our pasture field, so I'm very concerned if there's a house built there.

MR. McKINNEY: Would this cause a hardship or be detrimental to -- to your farming if there was a -- if this was made residential?

MERLE SNODGRASS: For one house you mean?

MR. McKINNEY: Yeah, for --

MERLE SNODGRASS: Would it be a hardship?

MR. McKINNEY: Yeah.

MR. SNODGRASS: I'm not sure what you mean by a hardship.

MR. McKINNEY: Well, where you couldn't go ahead and keep farming in that area or -- or still use that area for pasture.

MERLE SNODGRASS: We use that area and have used it for years. It's just a permanent pasture. You know, my concern is if you have livestock get out they're right in somebody's yard before, you know --

MR. McKINNEY: Okay.

MR. FREEBERG: Do your cattle go on his land that he wants to sell now?

MERLE SNODGRASS: Pardon?

MR. FREEBERG: Do your cattle go on this land that we're considering tonight, do they go on that land now?

MERLE SNODGRASS: That he wants to sell?

MR. FREEBERG: Yeah.

MERLE SNODGRASS: No, that's Mr. Anderson's land. Our land is on the other side, the west side of the fence. It goes down.

MR. FREEBERG: I take it your cattle go up around behind the Taylors and the Clevelands?

MERLE SNODGRASS: Yes, they go clear over to Rock Road.

MR. FREEBERG: Do you have any problem with those people with your cattle?

MERLE SNODGRASS: No, we've been very

fortunate. Once in a while we have something get out, but I don't know, it's been 15, 20 years ago Marv Noring wanted a nursery so we rented 2 acres just south of Amos Taylor and Marv Noring and he had a nursery in there for many years and we built a fence across there. It's still a pretty good fence, but no, we've never had any problem. Something gets out once in a while. We had a calf out just a few days ago and Steve Burke is -- those people are really very good about calling us and letting us know and Tom went over and got him back in and it was no problem.

MR. McKINNEY: Do you think putting a house here on this 7 acres would hurt your land value in any way?

MERLE SNODGRASS: Well, I really don't know how to answer that. I guess I never thought about selling it.

MR. FREEBERG: This old farmstead where the Burkes live, they're not involved in farming either?

MERLE SNODGRASS: No, no.

MR. FREEBERG: And that's all fenced off

also?
MERLE SNODGRASS: Well, when we bought the Sanders farm in 1973 we rented that house for a number of years and it's always better -- eventually we -- and I knew Steve Burke. You want to be a little careful, but we sold him that house and 3 acres and he built a shed and I knew he would take good care of it, he's that kind of a person.
MR. BRONKEMA: He also owns a business there too, don't he?
MR. SNODGRASS: Pardon?
MR. BRONKEMA: He runs a business there too, don't he?
MERLE SNODGRASS: I think he's got a refrigerator business of some kind, I believe you're right, in his garage or maybe somewhere else. Tom, do you know?
TOM SNODGRASS: Yes, he does run a little sideline business, heating and cooling.
MERLE SNODGRASS: Okay.
TOM SNODGRASS: Okay. Did you mention that the land across Mud Creek, Dad, is --
MERLE SNODGRASS: On the north side?

TOM SNODGRASS: Yes.
MERLE SNODGRASS: Yes, all the land across Mud Creek from this there are no houses between Yocums and that's a mile west and then you go past Lime Kiln Road just over the hill, Jeff Tremble lives there, you go a little further and then you're in Indian Ridge Subdivision, so there's nothing on the north side for a mile and a half I suppose.
MR. McKINNEY: Did you have any statements, Tom?
TOM SNODGRASS: No. If you look on your map you see I kind of highlighted it in green that 7 acres, that's the corner of the lot. I didn't know how far along Mud Creek or the fence line he was going to go, so I didn't draw the whole lot out. That's to kind of just give you an idea where it's at.
MR. McKINNEY: Okay. Does anybody else have any questions?
TOM SNODGRASS: We do haul manure up in this field and if there was a house down there they might have the complaint of the smell.
MR. McKINNEY: The country smell.

TOM SNODGRASS: Now, the neighbors down here know that we do it and we get a complaint from Mr. Burke, but it's -- it's a friendly complaint, you know, he's just joking around, so --
MERLE SNODGRASS: Yeah, it's a complaint with a smile which you don't usually get.
RANDY ANDERSON: Tom, there's a district between R-1 and AG-1 called Intermediate Ag. It's required to be 10 acres. It's primarily geared towards somebody who wants to have animals and have a residence too, but usually they have animals if they're going to buy the 10 acres. Do you think that would be an appropriate --
TOM SNODGRASS: You mean, for him to -- for somebody to have an animal there?
RANDY ANDERSON: Yeah. What would your opinion be if that had come instead of an R-1 as an Intermediate Ag with 10 acres and they would still be able to put a house on it, but usually the people that buy those have animals?
MERLE SNODGRASS: Well, Intermediate is 15 acres?

RANDY ANDERSON: No, 10, but like I say, most of those people buy it with the intent of having animals.
TOM SNODGRASS: Horses mainly.
RANDY ANDERSON: Correct.
MR. McKINNEY: Or they could put crops on the remainder beside the house.
TOM SNODGRASS: I really wouldn't have any complaint on that just so -- because they'll have animals there and they know that animals can produce an odor also, so --
MR. McKINNEY: And IA is considered ag, you know, it's a -- just a form of ag that they can build a house on, has to be at least 10 acres with so much frontage road that they have to have.
TOM SNODGRASS: Okay.
MERLE SNODGRASS: Well, I have one more comment. Mr. Anderson owns from where this piece is over to Lime Kiln Road. Now, there's about a half a mile along there. This lot could be put anywhere along there. He has 5 acres advertised right next to Lime Kiln Road. I have no objection at all if he goes over there a

quarter of a mile or so. I don't think it would ever bother us. It wouldn't be a problem.

MR. BRONKEMA: I guess I got a question to you two. Did you consider just buying that 7 acres and eliminating this problem?

MERLE SNODGRASS: Me?

MR. BRONKEMA: Yeah.

MERLE SNODGRASS: That's possible -- well, let me say this: Not for what I see it listed at. You know, you couldn't do that.

MR. BRONKEMA: My point is it fits right into your farm.

TOM SNODGRASS: Yes, it does, but it's not feasible to buy it at the price that I heard on it, so -- for us.

MERLE SNODGRASS: If it was just a regular land price, yes, you bet, I sure would be -- sure would do that.

MR. McKINNEY: Any other questions for either of the Mr. Snodgrasses?

MR. BRONKEMA: I guess you guys haven't really negotiated to know what you can do and can't do, in other words.

MR. McKINNEY: Okay. Is there anybody

else here who wishes to testify opposing this petition? Mr. Anderson, you have a chance to refute and have a closing statement.

ERIC ANDERSON: Well, you mentioned Intermediate Ag, but that would require going back down to the creek and I can't see that there would be any difference between selling 7 acres or 10 acres if someone were to build a house there. All the other complaints about country smell and things like that apply still if you got 10 acres or 7 acres and although this area is primarily agricultural along Lime Kiln Road, our eastern boundary, there are several residential houses along there and Earl Straley (phonetic) owns a piece of farmground in the bottom there, pasture land and next to that is Martin Brothers Quarry, that's not agriculture.

MR. McKINNEY: One of the -- my big concerns with -- with this is it's spot zoning. You've got ag all around it and then you want to put residential in there. If this was approved then somebody else may come along and want to buy another 5 or 7 acres from you or go across the road and buy -- and put a residential in

and, you know, once you allow it you can't really stop other people from coming in and putting residential in.

ERIC ANDERSON: The trend is already started along Mud Creek Road starting down at the river and they're gradually building up toward the west and across -- along both sides of Mud Creek Road there.

MR. McKINNEY: Anything else?

MR. FREEBERG: I think that's right. Even if he did have 10 acres to make it IA, that doesn't mean anybody is going to have livestock in there and that the situation would be any different than if he sells it the way it is.

RANDY ANDERSON: But we're trying to appease a situation here. We have our own zoning rules that we have to live within and we have the community and trying to make sure that there's some peace and continuity between --

MR. McKINNEY: Plus the Planning Commission denied it because they felt it did not fit in the Comprehensive Plan.

RANDY ANDERSON: Right.

MR. McKINNEY: At least the majority of

the Planning Commission felt that way.

ERIC ANDERSON: The Planning Commission is running a survey on the Internet to consider -- reconsider the zoning ordinances and --

MR. McKINNEY: Yeah, but we have to look at the rules as they stand today.

MR. FREEBERG: As far as spot zoning, the Planning Commission also approved the one we're going to consider later which you could also argue is spot zoning.

MR. McKINNEY: That's true. So if there's nothing else, I'll entertain a motion to go back into open session.

RANDY ANDERSON: I'll make that motion.

MR. SWORD: I'll second it.

MR. McKINNEY: It's been moved and seconded to go back into open session. All those in favor signify by saying aye.

(All those simultaneously responded.)

MR. McKINNEY: Any opposed say nay. Motion passed. Back into open session. We'll go through the finding of facts.

MR. MILLER: No. 1) That the proposed

Amendment will allow development that is compatible with existing uses and zoning of nearby property.

MR. SWORD: The development of the site for residential use is incompatible with existing agriculture uses and agriculture zoning of nearby properties and the development of residential use in this area will possibly encourage premature residential development in an agricultural area. I feel that standard is not met.

MR. McKINNEY: I agree.

RANDY ANDERSON: I agree.

MR. FREEBERG: I disagree.

MR. McKINNEY: Maury?

MR. BRONKEMA: I agree.

MR. MILLER: No. 2) That the County of Ogle and other service providers will be able to provide adequate public facilities and services to the property including, but not necessarily limited to schools, police and fire protection, roads and highways, water supply and sewage disposal while maintaining adequate public facilities and levels of service to existing

developments.

MR. BRONKEMA: Well, the development of the site for residential use will not create a burden on the County of Ogle or other public service providers because only one house will be constructed on the site that fronts on the county highway and also due to the relative proximity to urban services. I feel that standard is met.

(All those agreed.)

MR. MILLER: No. 3) That the proposed Amendment will not result in significant adverse impacts on other property in the vicinity of the subject site or on the environment including air, noise, stormwater management, wildlife and natural resources.

MR. FREEBERG: No adverse impacts on other property in the vicinity of the subject site or on the environment including air, noise, stormwater management, wildlife and natural resources are anticipated from the development of this site. I guess those factors that they list there affecting the air, noise or stormwater management on neighboring property I

don't see where it's going to do that so I feel the standard is met.

MR. SWORD: I agree.

RANDY ANDERSON: Considering air, noise and stormwater management I'll agree.

MR. BRONKEMA: Agree.

MR. McKINNEY: I'll agree.

MR. SWORD: Everybody did.

MR. McKINNEY: Okay.

MR. MILLER: No. 4) That the subject property is suitable for the proposed zoning classification.

MR. SWORD: Well, the site is suitable for R-1 zoning as it is rural area and has a low LESA score and there are eleven nonfarm residential uses within a half mile and the petition I feel is inconsistent with the purpose, so I guess I agree with part of that, but not all of it.

MR. McKINNEY: So are you saying it's met or not met?

MR. SWORD: Well, because it's R-1 I guess I'm going to have to say that I feel it is not met.

MR. McKINNEY: I also feel that being in a -- basically an agriculture area there's potential hazards from groundwater contamination, the septic system. This -- although it's not prime farmland, it is farmable, so I agree that it's not met.

RANDY ANDERSON: I'll agree.

MR. FREEBERG: I look at it it's already fenced off on one side and the other side is natural border formed by a ditch. The way it sits it's kind of a natural parcel and it says the petition is not inconsistent with the purpose, intent of the R-1 Zoning District. I don't see -- he's hoping to sell these 7 acres and no one is going to buy 7 acres and go into farming, so I think it does meet the standard.

MR. McKINNEY: Maury?

MR. BRONKEMA: I guess I'm on the fence. I'll have to agree with him. It meets the standard being -- being separated, but I really would like to see it stay where it's at, so I'll have to say standard not met.

MR. McKINNEY: Not met. Four say no, one saying yes.

MR. MILLER: No. 5) That the proposed zoning classification is consistent with the trend of development, if any, in the general area of the subject property including changes, if any, which have taken place since the day the property in question was placed in its present zoning classification.

MR. BRONKEMA: Well, there is development -- a trend of development in the vicinity of residential uses, many parcels in the immediate area, but the proposed zoning classification is not consistent with the trend, existing zoning of the surrounding land as far as I'm concerned. I don't know how -- if it lists that standard met or not met.

RANDY ANDERSON: It's basically not contiguous to any other zoning of R-1.

MR. McKINNEY: I would say in the immediate area, right on the north, south, east and west it's all farmland and I feel that, you know, the trend of -- the trend for this parcel in this immediate area is agriculture. I believe the -- just to the west on Rock Road wasn't -- I believe that's ag zoning also even

though there's four houses there and the other houses on Lime Creek (sic) Road are probably what, a half a mile or more away, so I feel that the standard is not met.

MR. BRONKEMA: We don't really know how many of them are Intermediate Ag or residential either, do we, in that area? I guess I'll have to say standard not met.

MR. SWORD: I agree, not met.

RANDY ANDERSON: Agree, not met.

MR. McKINNEY: Curt?

MR. FREEBERG: Well, I look at the overall map here coming in from the east and I mean, there's -- sometimes it would be nice if things like this developed -- if it was, you know, not lot next to lot next to lot as you go down the road and the fact of the matter is that's not the way it usually works out. I think the standard is met.

MR. MILLER: No. 6) That the proposed Amendment is consistent with the public interest and not solely for the interest of the applicant giving due consideration to the stated purpose and intent of the Amendatory Zoning Ordinance as

set forth in Division 1 therein, the Land Evaluation and Site Assessment, LESA findings, if applicable and the recommendation of the Ogle County Regional Planning Commission with respect to the Ogle County Amendatory Comprehensive Plan.

RANDY ANDERSON: The proposed Amendment is inconsistent with the public interest and please note that I'm highlighting public interest and solely for the interest of the applicant and I understand your plight. The proposed Amendment is inconsistent with the stated purpose and intent of the Amendatory Zoning Ordinance and the Regional Planning Commission has recommended denial. I'll say the standard is not met.

MR. McKINNEY: I agree.

MR. SWORD: I agree.

MR. BRONKEMA: I agree.

MR. FREEBERG: Agreed.

MR. MILLER: In addition, has the Board considered the LaSalle factors as it relates to this petition?

(All those simultaneously said yes.)

MR. McKINNEY: Okay. Going through the finding of facts it's very across the board. Standard No. 1 four members felt that the standard not met. Standard 2 we all felt that that standard was met. Standard 3 all felt that the standard was met. Standard 4 one felt it was met, four not met. Standard 5 one felt it was met, four not met. Standard 6 we all felt that it was not met. With that I'll entertain a motion.

RANDY ANDERSON: I'll make a motion that we recommend to the County Board a denial of Amendment 5-09 for the Anderson Family Trust based on four of the six standards were not met and there was a discrepancy in there too. I think there's -- there's other means to be able to resolve this without going to an R-1 rezoning. There was some discussion that you may have a daughter or a blood relative that may be interested in purchasing the property. There are means of doing that so that they can purchase a piece of property contiguous to a residence that's there, so with that I'll make my proposal.

MR. McKINNEY: Is there a second?
MR. BRONKEMA: I'll second it.
MR. McKINNEY: Randy has moved, Maury has seconded to recommend to the County Board to deny Petition 05-09 Amendment from AG-1 to R-1. Roll call.
MR. MILLER: Anderson?
RANDY ANDERSON: Yes.
MR. MILLER: Sword?
MR. SWORD: Yes.
MR. MILLER: Freeberg?
MR. FREEBERG: No.
MR. MILLER: Bronkema?
MR. BRONKEMA: Yes.
MR. MILLER: McKinney?
MR. McKINNEY: Yes.
(By voice vote four ayes, one nay.)
MR. MILLER: Four yes, one no.
MR. McKINNEY: Motion passed to recommend to deny.
MR. MILLER: This petition will go to the Planning Assessment and Zoning Committee for a recommendation on August 12th at 1 p.m. at the

Ogle County Sheriff's Office and to the County Board for a decision on August 18th at 5:30. You're welcome to attend.

Now on this 30th day of July 2009, I do signify that the foregoing testimony was given before the Ogle County Zoning Board of Appeals.

Bruce McKinney, Chairman

Michael Reibel,
Zoning Administrator

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